IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE NINTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE GODA RAGHURAM

WRIT PETITION NO : 11793 of 2005

Between:

1. Karna Harinath, s/o Lachaiah,
   Banjara (V), Dornakal (M), Warangal District.
2. Dharmapuri Sambaiah, s/o Bhadraiah,
   Ammapalem (V), Dornakal (M), Warangal District.

..... PETITIONERS

AND

The Revenue Divisional Officer, Mahabubabad, Warangal District.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to to issue appropriate writ or order or direction more particularly one in the nature of writ of mandamus declaring the show cause notice No.C/802/05 dt.07-05-2005 and the suspension proceedings No.C/802/05 dated 07-05-2005 issued by the respondent suspending the fair price shop dealership and authorization of the petitioners as illegal, arbitrary and against principles of nature of justice and consequently set aside the show cause notice and suspension proceedings No.C/802/05 dt.07-05-2005 issued by the respondent and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.P.GIRI KRISHNA

Counsel for the Respondent: GP FOR CIVIL SUPPLIES

The Court, at the stage of admission, made the following:

Oral order:-

Heard the learned counsel for the petitioner and the learned Government Pleader for Civil Supplies.

Two proceedings of the respondent -- show cause notice and an order of suspension of authorization -- both dated 07-05-2005 are assailed in this writ petition.

The petitioners are fair price shop dealers of Banjara and Ammapalem villages of Dornakal mandal, Warangal district, since 1983 and 1982 respectively. While so, a show cause notice and an order of suspension (impugned in this writ petition) have been issued by the respondent alleging that on 05-05-2005 the villagers have complained against the petitioners to the Hon'ble Minister for Social Welfare that the petitioners are not properly distributing the commodities. In the circumstances, alleging violation of Clause (5)(5) of A.P. State (Distribution on Cards) Commodities Regulation Orders, 2001 and calling upon the petitioners to explain within seven (7) days why their dealership and authorization should not be cancelled, a show cause notice was issued and by another proceeding of the same date their authorizations were suspended till completion of a detailed inquiry.

Inter alia, the complaint of the petitioners is that without disclosing any particulars whatsoever as to the particulars of card holders in respect of whom the deficient supplies were made by the petitioners or the dates or the months in which such deficient supplies were allegedly made, the show cause notice has been issued thereby depriving the petitioners of a reasonable opportunity to explain in the eventual inquiry to be conducted.

The above contention of the petitioner is well founded. The show cause

notice is totally bereft of any particulars and therefore disables any rational response from the petitioners. The show cause notice is an empty ritual and a public relations exercise and does not answer the description of a reasonable opportunity. The petitioners are thus prejudiced by not affording them a reasonable opportunity. As the order of suspension of authorization is a consequence of such show cause notice, with the invalidity of show cause notice, the suspension of authorization suffers a similar fate.

Accordingly, the two orders of the respondent bearing Rc. No. C/802/2005 dated 07-05-2005 are invalidated and accordingly set aside. Nothing in this judgment however prevents the respondents from taking appropriate steps against the petitioners in accordance with law and in conformity with the obligation of the respondent consequent on the complaints by the consumers viz., the card-holders.

The writ petition is, accordingly, allowed as above. No costs.

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GODA RAGHURAM, J

Dt. 09-06-2005

Pvks/*

To

1. The Revenue Divisional Officer, Mahabubabad, Warangal District.

2. 2 CCs to the Government Pleader for Civil Supplies, A.P. High Court Buildings, Hyderabad (OUT)

3. 2 CD copies